

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BONNIE CALVIN WILLIAMS, JR.,

Petitioner,

Case No. 07-11050

v.

Honorable Patrick J. Duggan

SUSAN DAVIS,

Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on July 31, 2007.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On March 12, 2007, Bonnie Calvin Williams, Jr. ("Petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. His petition alleged a Fourth Amendment claim based on the state trial court's denial of Petitioner's motion to suppress. On June 26, 2007, this Court issued an Opinion and Order denying the petition for a writ of habeas corpus on the grounds that Petitioner had a full and fair opportunity to litigate his Fourth Amendment claim in state court, and thus, federal habeas review of his claim was barred pursuant to *Stone v. Powell*, 428 U.S. 465, 494-95, 96 S. Ct. 3037, 3052-53 (1976). Presently before this Court is Petitioner's Motion Certificate of Appealability, filed on July 19, 2007.

In general, 28 U.S.C. § 2253 governs appeals of habeas corpus proceedings. Section 2253(a) provides that “[i]n a habeas corpus proceeding . . . before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.” However, unless a certificate of appealability is issued, an appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding.

“A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see also Lyons v. Ohio Adult Parole Auth.*, 105 F.3d 1063, 1073 (6th Cir. 1997). “When the district court denies the habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 1604 (2000).

Because the Court does not believe that jurists of reason would find it debatable whether Petitioner was given a full and fair opportunity to litigate his Fourth Amendment claim, the Court shall deny Petitioner’s motion.

Accordingly,

IT IS ORDERED, that Petitioner’s Motion for Certificate of Appealability is **DENIED**.

s/PATRICK J. DUGGAN

UNITED STATES DISTRICT JUDGE

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